

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	

**BLACKFOOT TELEPHONE COOPERATIVE, INC. AND
FREMONT TELCOM COMPANY
SUPPLEMENT TO REQUEST FOR LIMITED WAIVER AND
APPEAL OF USAC DECISION**

Blackfoot Telephone Cooperative, Inc. and Fremont Telcom Company (collectively “Blackfoot”), by their counsel, hereby supplement their Request for Limited Waiver of March 1, 2018 Deadline for Certifying Broadband Locations in the High Cost Universal Broadband System for Alternative Connect America Cost Model (“Waiver Request”).¹ In the Waiver Request, Blackfoot explained that concurrently with the submission of the Waiver Request, Blackfoot also submitted a letter of appeal to the Universal Service Administrative Company (“USAC”), requesting that USAC reverse its decision to reduce Blackfoot’s Alternative Connect America Cost Model (“A-CAM”) support related to the March 1, 2018 deadline for certifying broadband locations in the High Cost Universal Broadband portal (“HUBB”) because the basis on which USAC reduced the A-CAM support disbursements to Blackfoot was factually incorrect (“USAC Appeal”). *See* Exhibit A to Waiver Request. Blackfoot hereby supplements the Waiver

¹ *Connect America Fund*, Blackfoot Telephone Cooperative, Inc. and Fremont Telcom Company Request for Limited Waiver of March 1, 2018 Deadline for Certifying Broadband Locations in the High Cost Universal Broadband System for Alternative Connect America Cost Model Funding, WC Docket No. 10-90, filed April 25, 2019.

Request to provide the Commission with an update on the USAC Appeal and, in the alternative and to the extent necessary, to appeal USAC's decision on the USAC Appeal.

On April 30, 2019, five days after Blackfoot submitted the USAC Appeal, USAC notified Blackfoot's counsel that USAC did not have authority to waive an FCC rule and that USAC was unable to reverse the reduction of support, thus effectively denying the USAC Appeal ("USAC Denial").² Accordingly, the relief requested in the Waiver Request is ripe for consideration and grant. As set-forth in the Waiver Request, there is good cause for grant of the relief requested therein.

To the extent necessary, and as an alternate basis for relief, Blackfoot hereby requests that the Commission review and revise the USAC Denial. In the USAC Denial, USAC appears to acknowledge that Blackfoot was having issues with user entitlements to the USAC electronic systems, but USAC seems to rely on the lack of any screenshot of the HUBB location certification confirmation, as the basis for USAC's inability to reverse the late filing penalty.

As demonstrated in the Waiver Request and in the USAC Appeal, Aaron Neilson, Blackfoot's Vice President and General Counsel, timely certified the location data on February 16, 2018, well before the March 1, 2018 deadline. As explained in the Waiver Request and USAC Appeal, the reduction of Blackfoot's A-CAM support and denial of the USAC Appeal is premised on a mistake of fact on USAC's part. Accordingly, the Commission should reverse the USAC Denial and order USAC promptly to issue to Blackfoot the full amount of A-CAM support for the relevant time period.

² Email from Jaia Terry, USAC, to Robin Tuttle, Herman & Whiteaker, LLC, counsel for Blackfoot (April 30, 2019) (Attachment 1).

For the reasons set-forth in the Waiver Request and the USAC Appeal as further supplemented herein, the Commission should grant the requested waiver and/or grant this request for review of the USAC Decision and order USAC to issue the full A-CAM support owed to Blackfoot.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Whiteaker', with a long horizontal flourish extending to the right.

Gregory W. Whiteaker
Robin E. Tuttle
HERMAN & WHITEAKER, LLC
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Bethesda, MD 20817
Greg@hermanwhiteaker.com
rtuttle@hermanwhiteaker.com
202-600-7274
202-827-0667

*Counsel for
Blackfoot Telephone Cooperative, Inc.
and Fremont Telcom Co.*

May 7, 2019

Exhibit A

HA

From: HC Appeals hcappeals@usac.org
Subject: RE: Appeal of Blackfoot (SPIN 143002531) and Fremont (SPIN 143002515) re Reduction in A-CAM Support
Date: April 30, 2019 at 11:40 AM
To: HC Appeals hcappeals@usac.org, Robin Tuttle rtuttle@hermanwhiteaker.com
Cc: Greg Whiteaker greg@hermanwhiteaker.com, Jaia Terry Jaia.Terry@usac.org

Dear Robin E. Tuttle:

USAC has reviewed the request submitted by Herman and Whitaker, LLC on behalf of Blackfoot Telephone Cooperative, Inc. and Fremont Telcom Co. Based on your letter and the facts related to this matter, you are requesting a waiver of a Federal Communications Commission (FCC) rule.

The documentation provided supports that certification took place on March 8, 2018 and the carrier acknowledged that it did not have screenshots of the certification confirmation screen they said they observed prior to the March 1, 2018 deadline. Despite the company's issue with user entitlements in the system, USAC does not have the authority to waive an FCC rule.

Because USAC is not authorized to waive the FCC's rules and requirements for the High Cost Program, USAC is unable to reverse the late filing penalty. If you wish to request a waiver, please follow the instructions pursuant to 47 C.F.R. Part 54, Subpart I (47 C.F.R. §§ 54.719 to 725). You may find additional instructions for filing appeals or requesting waivers at:

<http://www.usac.org/about/about/program-integrity/appeals.aspx>.

Best Regards,

Jaia Terry

(202) 414-2765 (ph)

Jaia.terry@usac.org | www.usac.org

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From: HC Appeals

Sent: Monday, April 29, 2019 11:38 AM

To: Robin Tuttle <rtuttle@hermanwhiteaker.com>; HC Appeals <hcappeals@usac.org>

Cc: Greg Whiteaker <greg@hermanwhiteaker.com>

Subject: RE: Appeal of Blackfoot (SPIN 143002531) and Fremont (SPIN 143002515) re Reduction in A-CAM Support

Good morning,

We received your appeal. We will review the information provided and may reach out to you if we have any questions.

Best Regards,

Jaia Terry

Jaia Terry
(202) 414-2765 (ph)
Jaia.terry@usac.org | www.usac.org

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From: Robin Tuttle [<mailto:rtuttle@hermanwhiteaker.com>]
Sent: Thursday, April 25, 2019 4:39 PM
To: HC Appeals <hcappeals@usac.org>
Cc: Greg Whiteaker <greg@hermanwhiteaker.com>
Subject: Appeal of Blackfoot (SPIN 143002531) and Fremont (SPIN 143002515) re Reduction in A-CAM Support

To whom it may concern:

Please find attached a letter of appeal submitted on behalf of Blackfoot Telephone Cooperative, Inc. and Fremont Telcom Co., along with supporting exhibits. Please contact the undersigned should you have any questions.

Thank you,

Robin E. Tuttle
Senior Counsel
Herman & Whiteaker, LLC
6720-B Rockledge Drive, Suite 150
Bethesda, MD 20817
202-827-0667
rtuttle@hermanwhiteaker.com

Counsel for Blackfoot Telephone Cooperative, Inc. and Fremont Telcom Co.

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